

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

**INITIAL STATEMENT OF REASONS****CALIFORNIA CODE OF REGULATIONS**

TITLE 8: Chapter 4, Subchapter 7, Article 100, Section 5035(b) and  
new Section 5035(c) of the General Industry Safety Orders

**Repair and Testing of Crane Booms and Boom Extensions****SUMMARY**

This rulemaking action is the result of the Occupational Safety and Health Standards Board staff review and evaluation of the language contained in Section 5035(b) of the General Industry Safety Orders regarding the testing of crane booms and boom extensions that have been repaired.

The Occupational Safety and Health Appeals Board issued a "Decision After Reconsideration", dated March 15, 2001, in the matter of the Appeal of D. Robert Schwartz dba Alameda Metal Recycling and Alameda Street Metals in which the undefined term "extensively repaired" as used in GISO Section 5035(b) was an issue of contention as to whether repairs made to the crane boom required the testing specified by the regulation. Consequently, this proposal seeks to clarify the regulation and ensure that repairs to a crane boom or boom extension are performed in accordance with the manufacturers' or certified agent's recommendations. Further, a new subsection to Section 5035 is proposed specifying that new or replacement booms or boom extensions shall be tested before use in accordance with Section 5022.

**SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION****Section 5035. Damaged Booms.****Subsection (b)**

Section 5035 requires crane booms and boom sections that have been damaged to be repaired prior to further use. Existing subsection (b) requires that any new or "extensively repaired" boom or boom extension be tested in accordance with Section 5022, unless such boom or extension has been designed

or repaired and inspected by a certified agent. Amendments are proposed to delete existing subsection (b) in order to eliminate the ambiguous term “extensively repaired” and add new language which reads, “Repairs to critically stressed members of a boom or boom extension, such as a boom chord, mast chord, or boom sections, shall be performed in accordance with the manufacturers’ or certified agent’s recommendations.” The proposed revisions are necessary to clarify the requirements pertaining to repairs made to crane booms and boom extensions and ensure that such repairs are performed in accordance with the manufacturers’ or certified agent’s recommendations.

#### New subsection (c)

New subsection (c) is proposed which requires that new or replacement booms or boom extensions be tested before use in accordance with Section 5022. Though similar to the requirements in existing subsection (b), new subsection (c) requires the testing of new or replacement booms or boom extensions irrespective of a certified agent’s design, repair or inspection. The proposed new subsection is necessary to clarify the intent of the regulation and ensure consistency with the provisions of Section 5022(a)(3), which requires load testing after major modifications are made to important structural components of a crane (such as adding a new or replacement boom or boom extension), and before the crane is returned to service.

#### DOCUMENTS RELIED UPON

The Occupational Safety and Health Appeals Board Decision After Reconsideration, dated March 15, 2001, in the matter of the Appeal by D. Robert Schwartz dba Alameda Metal Recycling and Alameda Street Metals, Docket No. 96-R4D2-3553.

This document is available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

#### DOCUMENTS INCORPORATED BY REFERENCE

None.

#### REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

#### SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this regulation does not constitute a “new program or higher level of service of an existing program with the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulation does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed regulation does not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standards.

#### EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses.

#### ASSESSMENT

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.